

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

**Child and Family Services Agency**

**Office of General Counsel**



MLA 07-06 – Parents –  
Criminal Background Checks  
March 28, 2007

**MEMORANDUM OF LEGAL ADVICE**

**Issue**

Whether the Child and Family Services Agency (“CFSA”) is required to conduct criminal background checks or Child Protection Services (“CPS”) clearances of birth parents, and adults in their households, if they live in or outside of the District of Columbia, before such parents may have unsupervised visits in their home or be reunified with their children?

**Conclusion**

There are no District statutes that require that the CFSA conduct a criminal background check or CPS clearance of birth parents, or adults living with them, before they may visit with or have their children returned to their care.

**Analysis**

In abuse or neglect cases and in carrying out its business, the CFSA must comply with its legal mandate under Title IV of D.C. Official Code and other District and federal laws and regulations, including judicial orders issued under Title XVI of the D.C. Official Code and other statutes, and when applicable, requirements under the Interstate Compact on the Placement of Children (“ICPC”) (D.C. Official Code § 4-1421 *et seq.*) (2001).

For example, the CFSA is required to safeguard the rights and protect the welfare of children whose parents, guardians, or custodians are unable to do so, and to ensure the protection of children who have been abused or neglected from further experiences and conditions detrimental to their healthy growth and development (D.C. Official Code § 4-1303.01a(b)(6), (8)) (Supp. 2006). Also, when a child has been adjudicated a neglected child and committed to the CFSA, the Agency is required to offer rehabilitative services to the child’s family including time-limited family reunification services designed to help the child, where safe and appropriate, to return to the family from which he or she has been removed (D.C. Official Code § 4-1303.03(a)(14), (b)(2)) (Supp. 2006). In addition, the CFSA is to facilitate meetings for a child in foster care with parents, siblings, relatives, and extended family members (D.C. Official Code § 4-1303.03(a-1)(5)) (Supp. 2006).

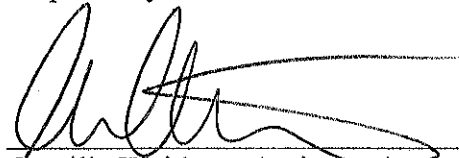
Further, under the April 2003 Implementation Plan ("IP"), the CFSA is required to maintain information on reports of abuse and/or neglect involving a child or family and during the investigatory stages, check such prior reports (section II(7), Protective Services, page 5). Likewise, the Amended Implementation Plan ("AIP"), dated February 14, 2007, requires that the CFSA continue to show evidence that investigators checked for prior reports of abuse and/or neglect during an investigation (section II(3), Outcomes to be Maintained, page 12).

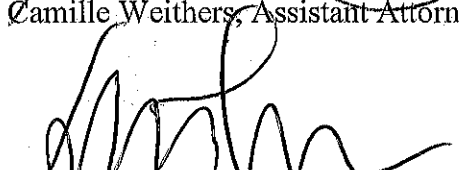
Moreover, with regard to background checks, under D.C. Official Code § 4-1305.02 (Supp. 2006), the following individuals seeking licensing or approval are required to submit to a criminal background check: adoptive parents; foster parents; kinship caregivers or legal guardians; individuals who are seeking to become adoptive parents; and adults who reside with such persons.

In addition, upon order of a judicial officer, any individual with whom a child is placed under protective supervision, or a relative or other individual who is found by a court to be qualified to receive and care for the child, and any adults residing with such persons, are required to submit to a background check (D.C. Official Code § 4-1305.02(5) (Supp. 2006). Also, grandparent caregivers and adults who reside with them are subject to a criminal background check (D.C. Official Code § 4-251.03(a)(4)) (Supp. 2006).

Accordingly, while there are no District statutes that require that a background check be conducted of birth parents, in its efforts to safeguard the rights and protect the welfare of children of the District of Columbia, actions by, or policies of, the CFSA should be in compliance with, and in furtherance of, its legislative and regulatory mandates, and court-ordered requirements including the IP and the AIP.

Prepared by:

  
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